

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

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MATTHEW STEPHEN MAZUREK,

Petitioner,

Case Number: 01-72233

v.

HONORABLE AVERN COHN

KURT JONES,

Respondent.

ORDER DENYING CERTIFICATE OF APPEALABILITY

Petitioner Matthew Stephen Mazurek (Petitioner) filed an application for a writ of habeas corpus under 28 U.S.C. § 2254 claiming that he is incarcerated in violation of his constitutional rights. The Court dismissed the petition with prejudice on the grounds that Petitioner's claims were barred by the one-year statute of limitations. See Opinion and Order of Dismissal, filed February 28, 2002.

Petitioner has now filed a request for a certificate of appealability under 28 U.S.C. § 2254(c)(1)(A) and Fed. R. App. P. 22(b). The Court must either issue a certificate of appealability indicating which issues satisfy the required showing or provide reasons why such a certificate should not issue. 28 U.S.C. § 2253(c)(3); Fed. R. App. P. 22(b); In re Certificates of Appealability, 106 F.3d 1306, 1307 (6th Cir. 1997). See also Murphy v. State of Ohio, 263 F.3d 466 (6th Cir. 2001) (per curiam).

A certificate of appealability may be issued "only if the applicant has made a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). In Slack v. McDaniel, __ U.S. __, 120 S. Ct. 1595 (2000), the United States Supreme

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Court made clear that the standard set forth in Barefoot v. Estelle, 463 U.S. 880 (1983), applies where, as in the instant case, the petition is dismissed on procedural grounds. That is, Petitioner must show "that reasonable jurists could debate whether (or, for that matter, agree that) the petition should have been resolved in a different matter or that the issues presented were 'adequate to deserve encouragement to proceed further.'" 120 S. Ct. at 1603-04 (quoting Barefoot, 463 U.S. at 893 and n.4); see also Lyons v. Ohio Adult Parole Authority, 105 F.3d 1063, 1073 (6th Cir. 1997), cert. denied, 520 U.S. 1224 (1997).

In an attempt to satisfy the above standard, Petitioner's request for a certificate of appealability simply raises the same arguments previously considered and rejected by the Court in its order of dismissal as to whether Petitioner's petition was time-barred. Thus, the Court relies on all of the reasons set forth in the order dismissing the petition and finds that reasonable jurists could not debate whether the petition should have been dismissed as barred by the statute of limitations. Accordingly, a certificate of appealability is DENIED.

SO ORDERED.



AVERN COHN
UNITED STATES DISTRICT JUDGE

Dated: APR 01 2002
Detroit, Michigan